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August 22, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Renee A. Alexander, Esq.
Network Services Division
Common Carrier Bureau
Federal Communications Commission
2000 M Street, N.W., Room 205-C
Washington, D.C. 20554

Re: ***Code Opening Fees, CC Docket No. 96-98,
Implementation of the Local Competition Provisions
Of the Telecommunications Act of 1996***

Dear Ms. Alexander:

Arch Communications Group, Inc. ("Arch") below responds to your Request for Information dated July 31, 1997 regarding "Code Opening" and related fees charged by certain incumbent local exchange carriers ("LECs"). Although the Request focuses on the fees incumbent LECs have charged for obtaining central office codes, which providers of commercial mobile radio service ("CMRS") need to obtain Type 2 interconnection, Arch also addresses the more extensive and serious problem of LEC charges for Type 1 telephone numbers.

I. Incumbent LEC Charges for Central Office Codes (Type 2 Interconnection)

Background. A central office ("CO") code is a three-digit code within the North American Numbering Plan ("NANP") which identifies a specific carrier switch within a Numbering Plan Area ("NPA" or area code).¹ CO codes have been administered by the largest LEC serving an NPA.² However, even before enactment of Section 251(e)(1) of the Telecommunications Act of 1996,³ the Commission determined that number administration, including CO

¹See 47 C.F.R. § 52.7(c) ("The term 'central office code' refers to the second three digits (NXX) of a ten-digit telephone number in the form NXX-NXX-XXXX, where N represents any one of the numbers 2 through 9 and X represents any one of the numbers 0-9."). See also *Telephone Number Portability, Report and Order*, 11 FCC Rcd 8352, 8494 n.2 (1996), and *Notice of Proposed Rulemaking*, 10 FCC Rcd 12350, 12354 ¶ 8 (1995); *Pennsylvania Public Utility Commission*, CC Docket No. 96-98, DA 97-675, ¶ 5 (April 4, 1997). CO codes are sometimes referred to as NXX codes.

²See *Second Local Competition Report*, 11 FCC Rcd 19392, 19536-37 ¶¶ 328-29 (1996).

³See 47 U.S.C. § 251(e)(1) ("The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers

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code assignment, should instead be handled by an impartial administrator — that is, an entity which does not also use the same numbering resources it administers.⁴ It is anticipated that the transfer of CO code administration from incumbent LECs to the new NANP administrator will be completed within two years.⁵

Incumbent LEC administration of CO codes is governed by Commission Rule 52.15, "Central Office Code Administration," which provides:

- (a) Central Office Code Administration shall be performed by the NANPA, or another entity or entities, as designated by the Commission.
- (b) Duties of the entity or entities performing central office code administration may include, but are not limited to:
 - (1) Processing central office code assignment applications and assigning such codes in a manner that is consistent with this part;
 - (2) Accessing and maintaining central office code assignment databases;
 - (3) Contributing to the CO Code Use Survey (COCUS), an annual survey that describes the present and projected use of CO codes for each NPA in the NANP;
 - (4) Monitoring the use of central office codes within each area code and forecasting the date by which all central office codes within that area code will be assigned; and
 - (5) Planning for and initiating area code relief, consistent with § 52.19

³(...continued)

available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.").

⁴See *NANP Administration*, 11 FCC Rcd 2588, 2613 ¶ 57 and 2619-20 ¶ 73 (1995); *Second Local Competition Report*, 11 FCC Rcd at 19510 ¶ 264 (1996); 47 C.F.R. § 52.13(a).

⁵See *NANP Administration*, 11 FCC Rcd at 2632 ¶ 108. See also *id.* at 2621 ¶ 79 ("[W]e conclude that LECs should relinquish the role of CO code administrator as soon as practicable.").

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- (c) Any telecommunications carrier performing central office code administration:
 - (1) Shall not charge fees for the assignment or use of central office codes to other telecommunications carriers, including paging and CMRS providers, unless the telecommunications carrier assigning the central office code charges one uniform fee for all carriers, including itself and its affiliates; and
 - (2) Shall, consistent with this subpart, apply identical standards and procedures for processing all central office code assignment requests, and for assigning such codes, regardless of the identity of the telecommunications carrier making the request.

It is expected that LEC CO code administrators will follow the code assignment guidelines which the industry has established.⁶

Response to Questions. Arch below responds to the four questions posed in your request for information.

1. Define and distinguish the terms "assignment of CO codes," "activation of CO codes." and "CO code opening."

Arch agrees with the Bureau's tentative conclusion that functions for "assignment of CO codes" include "receiving, processing, and assigning NXX codes to requesting telecommunications service providers." However, the actual assignment of a CO code to a requesting carrier is only one of the functions performed by a code administrator, as Rule 52.15 quoted above demonstrates. Arch therefore recommends that in the future the Commission instead consider referring to the "administration of CO codes."

One of the functions a CO code administrator performs is advising the NANP administrator, currently Bellcore, of the assignment so it, in turn, can advise the industry of the assignment. As the Commission has noted:

Currently, a local administrator (usually the dominant LEC within a particular area) is responsible not only for assigning individual central office codes, but also for entering new assignments into the Local Exchange Routing guide (LERG). The LERG contains the

⁶See *Central Office Code (NXX) Assignment Guidelines*, INC-95-0407008 (April 1997). A copy of this industry document may be retrieved at: "www.atis.org/atis/clc/inc/incdocs.htm."

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information necessary for routing messages, common channel signaling system (SS7) call set up, operator access routing, and data for rating calls.⁷

Publishing new code assignments in the LERG is an essential component of the assignment process. Without LERG publication, a carrier cannot begin using its newly assigned CO code because other carriers will not know to activate the code in their own networks. Consequently, Arch believes that the Bureau's tentative definition of "activation of CO codes" — "updating Bellcore databases to maintain accurate NXX code information and thus notifying affected carriers of the new or modified NXX code information" — is better encompassed under the classification of assignment, or administration, of CO codes.

Arch sees the two terms — CO code "activation" and CO code "opening" — as being synonymous. In Arch's view, both terms address the function a carrier performs within its own network, after receiving a LERG update, to ensure that a CO code assigned to another carrier is activated, or opened, so calls originating on the carrier's network can be routed to the carrier with the new CO code.⁸ Commission decisions appear to use the terms synonymously as well.⁹

2. List and define the functions associated with CO code assignment. Identify the fees charged by incumbent LECs for each of the functions associated with CO code assignment.

As discussed above, Arch believes that CO code administration is a more accurate and complete description than CO code assignment, and the functions of CO code administration are set forth in Commission Rule 52.15, quoted above.

⁷*Telephone Number Portability*, 10 FCC Rcd at 12354 n.13. See also *NANP Administration*, 7 FCC Rcd 6837,6839 n.25 (1992) ("The LERG, published by Bellcore, contains information which enables local telephone companies and long distance carriers to route traffic through the switched telephone network by identifying the physical location and routing information needed to reach each geographic location.").

⁸Arch is reluctant to characterize this task as an "upgrade" to a switch. The function of opening or activating a CO code merely involves the simple ministerial task of inputting a new code in a switch's translation tables. With centralized operational systems, carriers generally need not input the change at each individual switch.

⁹See *Second Local Competition Order*, 11 FCC Rcd at 19537-38 ¶¶ 332-33 (using "opening" and "activating" interchangeably).

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Arch is aware of only one LEC in its service area which currently imposes a fee for its administration/assignment function: Southern New England Telephone Company ("SNET"). SNET charges \$189 for each CO code it assigns in the State of Connecticut.¹⁰ Arch has not seen cost data supporting this figure, nor is Arch aware whether SNET imputes these costs for its own code requirements. While Arch has not seen SNET's supporting cost study, Arch has no reason to believe that SNET's \$189 fee is not a reasonable approximation of the costs SNET incurs in assigning a CO code.

3. List and define the functions associated with CO code activation. Identify the fees charged by incumbent LECs for each of the functions associated with CO code activation.

As discussed above, Arch defines CO code activation, or opening, as the function a carrier performs in activating a CO code within its own network — whether the code is assigned to itself or to another carrier. In Arch's judgment, no carrier should charge another carrier for making ministerial changes to its own network; such charges are simply a cost of participating in the public switched network. Nevertheless, until recently several incumbent LEC CO administrators had charged Arch and other carriers for their costs of activating, or opening, newly-assigned CO codes in their own network. These were fees which LECs imposed not in connection with their code administration function but rather with respect to their carrier function. Basically, LECs used their administration function as leverage to get other carriers to subsidize the cost of operating their networks.

Some LECs, such as Bell Atlantic and U S WEST, have not charged anything for activating a CO code within their network. Other LECs did impose such charges, and the size of the charges varied widely. For example, Pacific Bell in Los Angeles charged CMRS providers \$30,600 to open a single CO code, while GTE in Los Angeles charged "only" \$11,950.¹¹ In Florida, BellSouth in Miami charged \$3,915 to open a code, Sprint in Orlando charged \$7,400, and GTE in Tampa charged \$10,000.¹² Given that carriers need CO codes to provide service and given that incumbent LECs enjoyed complete control over the assignment of CO codes, competitive carriers like Arch had no choice but to pay these code activation/opening fees.

¹⁰See Letter from James A. Van Der Beek, SNET Account Manager, to Dennis M Doyle, Arch Vice President, at 1 (July 11, 1997). Although SNET calls this fee a "code opening fee," the fee constitutes SNET's "administrative charge associated with the establishment of the NXX in the Local Exchange Routing Guide (LERG)." *Id.*

¹¹See MTA-EMCI *Interconnection: Wireless Industry Rates & Trends*, Table 7.11, Summary of Charges for Telephone Numbers (April 1996).

¹²*Id.*

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To Arch's knowledge, all incumbent LEC CO code administrators within its service area have stopped the practice of charging Arch for opening or activating CO codes for Type 2 interconnection. Arch has no knowledge of the current practice outside its service area.

4. List and define the functions associated with CO code opening fees. Identify the fees charged by incumbent LECs for each of the functions associated with CO code opening fees.

See response to Question 3 above.

II. Incumbent LEC Charges for Telephone Numbers (Type 1 Interconnection)

The barriers CMRS providers like Arch once faced in obtaining CO codes for Type 2 interconnection have been virtually eliminated, largely due to the Commission's intervention.¹³ However, carriers like Arch still face unreasonably high, non-cost-based charges for the seven-digit telephone numbers used with Type 1 interconnection. Arch faces these exorbitant fees even though the Commission ruled over a decade ago that incumbent LECs may not impose charges for telephone numbers which exceed their costs, reminding LECs that they "do not 'own' codes or numbers, but rather administer their distribution for the efficient operation of the public switched network."¹⁴

Many incumbent LECs impose three different fees for use of public domain telephone numbers: (1) an activation fee; (2) recurring, monthly charges for numbers (generally for blocks of numbers); and (3) reservation of numbers. Each of these fees is discussed below.

Activation Fees. A paging carrier's Type 1 telephone numbers reside in a LEC central office switch.¹⁵ Those LECs still charging for Type 1 numbers often charge carriers like Arch a one-time activation fee, presumably intended to recover the cost in inputting the numbers into their switch memory.

¹³As evidenced by the recent *Bowles* decision (see note 15 *infra*), some small incumbents are still reluctant to provide Type 2 interconnection to paging carriers.

¹⁴FCC Policy Statement on LEC/CMRS Interconnection, 59 R.R.2d 1275, 1284 (1986).

¹⁵Arch has previously explained that for many years paging carriers had no choice but to use Type 1 interconnection because many LECs refused to provide Type 2 inter-connection altogether. See Arch Reply Comments, CCB/CPD-97-124, at 1-9 (June 27, 1997). Some incumbents refused to provide Type 2 long after the Commission had ordered LECs to provide such interconnection. See *Bowles v. United Telephone*, File No. E-96-04, DA 97-1441 (July 11, 1997).

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Type 1 activation fees can be sizable. On August 4, 1997 U S WEST billed Arch \$1,000 to activate 1,000 numbers in Albuquerque, New Mexico — an activation fee of \$1.00 per number. (As there are 10,000 numbers available with a CO code, this is the equivalent of paying \$10,000 to open a CO code.) Arch seriously doubts this \$1-per-number fee is cost-based because U S WEST recently offered, as part of a larger interconnection proposal, to reduce its activation fee to 17.5¢ per number. (In contrast, many LECs charge nothing for activating Type 1 numbers).

Pacific Bell charges Arch \$250 to activate a block of 100 numbers. However, if Arch orders one or more additional blocks of 100 numbers, Pacific Bell charges “only” \$64. It is not apparent to Arch why Pacific’s cost to activate two blocks of 100 numbers, as opposed to one block, should vary by 400% per block.

Arch does not believe these activation fees are cost-based, but has no basis to substantiate this belief because the LECs imposing these fees have never submitted a supporting cost study.¹⁶ However, a LEC’s actual costs for inputting numbers into its switches must be small because many LECs no longer charge Arch anything for use of Type 1 numbers, including a Type 1 activation fee.¹⁷

Recurring Fees. Over a decade ago, the Commission ruled that incumbent LECs “may not impose recurring charges solely for the use of numbers” and that any recurring charges imposed must be cost-based.¹⁸ Most LECs ignored this directive. The Commission repeated this admonition last August, stating that incumbent LECs “may not impose recurring charges solely for the use of numbers.”¹⁹ Following this second order, many LECs which had been charging recurring fees for Type 1 numbers stopped charging altogether.²⁰ However, some incumbent LECs have continued to charge Arch monthly fees that are not cost-based.

¹⁶Arch also does not know if those LECs charging an activation fee impute such charges in their own local exchange services.

¹⁷The practice of not charging for Type 1 numbers ranges from large incumbents like NYNEX to small incumbents like North Pittsburgh Telephone Company and North State Telephone Company (North Carolina).

¹⁸*FCC Policy Statement on LEC/CMRS Interconnection*, 59 R.R.2d 1275, 1284 (1986).

¹⁹*Second Local Competition Order*, 11 FCC Red at 19538 ¶ 333.

²⁰These LECs include Alltel, Bell Atlantic, Cincinnati Bell, GTE, Lexington Telephone (North Carolina), North Pittsburgh Telephone, SNET, and Sprint. U S WEST advised Arch in December 1996 that it would stop charging Arch for numbers, but nine months later it continues to bill Arch for numbers.

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For example, BellSouth's monthly fees had been among the lowest in the country (among those LECs imposing a fee), charging Arch 50¢ per 100 numbers (or one-half penny per number). In January 1997 Arch asked BellSouth to prepare a cost study arguing that BellSouth's costs should only be at most a penny or two per 100 numbers. While BellSouth has not shared its cost study with Arch, earlier this month BellSouth advised Arch that it would reduce its monthly charge by 94% — to only 3¢ per 100 numbers. Thus, while BellSouth's charges had been modest compared to many other LECs, Arch had still been grossly overcharged by BellSouth — for years.

Ameritech is a large incumbent, and one would think that its cost structure would be similar to BellSouth's — that is, recurring costs for storing a seven-digit number in computer memory should be minuscule. Nevertheless, Ameritech's monthly charge for numbers ranges from a low of 2¢ per number to a high of 22¢ per number:

Illinois	2¢
Indiana	22¢
Michigan	4¢
Ohio	17¢
Wisconsin	18¢

By itself, the 1100% disparity among Ameritech's prices is compelling evidence that its number charges are not cost-based. However, when set against BellSouth's new charge of 3¢ *per 100 numbers* (or 1/33 of a penny per number), Ameritech's numbers are unconscionable. It does not cost Ameritech even one penny, much less 22¢ *per month*, to store a seven-digit number in computer memory.

Some small incumbents, including North State Telephone (North Carolina) and North Pittsburgh Telephone, charge no fees for Type 1 numbers. Other small incumbents impose sizable fees. For example, Rock Hill Telephone (South Carolina) charges 20¢ per number, and Rochester Telephone charges 14¢ per number. Two days ago, Rochester advised Arch that it would be willing to reduce recurring number charges.²¹ However, to obtain this unspecified reduction, Arch must agree to pay for Rochester's interconnecting facilities. According to Rochester, "[u]nless a regulatory commission with appropriate jurisdiction

²¹Last year Rochester told Arch that it would be willing to drop its 14¢ per number charge to 9¢-to-12¢ monthly, depending upon the length of the contract term — although Rochester's number costs obviously do not vary by length of a contract term. *See* Letter from Kim Czak, Rochester Account Manager, to Dennis M. Doyle, Arch Vice President (July 23, 1996).

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invalidates our tariffed rates, all facility charges are valid.”²² Rochester takes this position even though Arch had pointed out to Rochester that the Commission has previously held that such facilities charges are invalid:

The interconnecting carrier [here, Arch] should not be required to pay the providing carrier [here, Rochester] for one-way trunks in the opposite direction, which the providing carrier owns and uses to send its own traffic to the interconnecting carrier.²³

Rochester’s only response to this Commission ruling was: “We acknowledge your letter Rochester Telephone’s position regarding the [facilities] charges which are applied to Arch has not changed.”²⁴

The number charges imposed by some small incumbents are simply outrageous. For example, Century Telephone of Ohio charges Arch \$1.04 *per number*, while RTC (Frontier in Iowa) charges Arch \$1.63 *per number* — compared to North State and North Pittsburgh which charge nothing.

Reservation Fees. Some LECs charge Arch a non-recurring fee to reserve telephone numbers to meet growth. For example, in New Mexico, U S WEST had been charging Arch \$60 to reserve a block of 100 numbers, although it has recently proposed to reduce this charge to \$15.20 (or 15.2¢ per number). Given that U S WEST does not own public domain numbers, it is not clear what costs U S WEST could possibly incur in reserving a block of 100 numbers and why even a \$15.20 charge is warranted.

It regrettably appears that the Commission must enter yet a third order instructing all incumbent LECs that, if they choose to charge for telephone numbers, those charges must be cost-based. Arch requests the Commission to enter a show cause order against all incumbent LECs still charging for numbers to establish that their prices are justified by costs, and to impose a refund order for excessive charges since at least October 7, 1996, the effective date of the *Second Local Competition Order* — although the Commission could easily use an early date given the clarity of its 1986 order.

²²Letter from Kim Czak, Rochester Account Manager, to Dennis M. Doyle, Arch Vice President (Aug. 19, 1997).

²³*First Local Competition Order*, 11 FCC Rcd 15499, 16028 ¶ 1062 (1996).

²⁴Letter from Kim Czak, Rochester Account Manager, to Dennis M. Doyle, Arch Vice President (Jan. 31, 1997).

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Feel free to contact me (508-870-6612) if you have any questions regarding the foregoing.

Sincerely,



Dennis M. Doyle
Assistant Vice President, Telecommunications
Arch Communications Group, Inc.